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EXAMINER

FERGUSON, MICHAEL P

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,762	<b>Applicant(s)</b> SANTANACH ET AL.	
	<b>Examiner</b> MICHAEL P. FERGUSON	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-28 is/are pending in the application.
- 4a) Of the above claim(s) 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19 and 24-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species 1, Figures 1 and 2, claims 16-19 and 24-28, in the reply filed on March 4, 2009 is acknowledged.
2. Claims 20-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 4, 2009.

### ***Claim Objections***

3. Claims 16, 25 and 27 are objected to because of the following informalities:  
In claim 16 (line 11) "wherein positioning" should recite --wherein the positioning--.  
In claim 25 (line 2) "the same" should recite --the screw--.  
In claim 27 (line 1) "on opening" should recite --an opening--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 16-19 and 24-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 (lines 1-12) recites "A fixing device for a motor vehicle air-conditioning system including an evaporator, an expansion valve, and a plurality of lines, comprising:

Art Unit: 3679

a housing in which at least a part of the motor vehicle air-conditioning system is arranged... wherein positioning element is configured to be fitted and fixed with the expansion valve in at least a twist-proof manner on the housing". It is unclear as to whether the motor vehicle air-conditioning system has been positively claimed as an element of the claimed fixing device, or whether such system has only been recited as intended use within the claims. Claim 27 (line 3) recites "with the at least one line being connected to the expansion valve". Claims 17-19 and 24-28 depend from claim 16 and are likewise rejected as being indefinite.

Claim 26 (lines 2-3) recites "with a housing joint running transversely through a housing-side part of the positioning element". Claim 26 fails to clearly and positively recite any structural limitations which enable one to properly determine what structurally constituted such housing joint and housing-side part.

6. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships which render the claims indefinite are as follows:

Claim 16 (lines 8-12) recites "wherein the projections are arranged and shaped in accordance with the second set of slots of the positioning element such that the positioning element can be positioned on the housing in a rotationally secure manner, wherein positioning element is configured to be fitted and fixed with the expansion valve in at least a twist-proof manner on the housing. Claim 16 fails to clearly and positively

Art Unit: 3679

recite any structural limitations which enable one to properly determine the structural engagement and functional relationship between the second set of slots and the projections, and between the positioning element and the expansion valve such that the positioning element and expansion valve can be positioned on the housing in a rotationally secure and twist-proof manner.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16-19 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inaba et al. (US 7,496,934) in view of DeVincent et al. (US 3,869,153).

As to claim 16, 18, 19 and 28, Inaba et al. disclose a fixing device capable of use with a motor vehicle air-conditioning system including an evaporator, an expansion valve, and a plurality of lines **11a,12a,20,21**, comprising:

a housing in which at least a part of the motor vehicle air-conditioning system is capable of being arranged, and

a positioning element **10** configured to position the lines relative to each other, wherein the positioning element has a first set of two slots **13a,14a** configured to receive the lines, wherein the positioning element is a sheet-metal punched part,

Art Unit: 3679

wherein positioning element is capable of being fitted and fixed with an expansion valve in at least a twist-proof manner on the housing (Figures 8-9, column 5 lines 40-46).

Inaba et al. fail to disclose a fixing device wherein the housing includes projections, and the positioning element has a second set of slots, wherein the projections are arranged and shaped in accordance with the second set of slots of the positioning element such that the positioning element can be positioned on the housing in a rotationally secure manner; wherein the second set of slots fix the positioning element on the housing; wherein the second set of slots extend in a line toward each other at longitudinal ends of the positioning element; wherein the projections extend from a surface of the housing towards the positioning element.

DeVincent et al. teach a fixing device wherein a housing **10** includes projections **40,42**, and a positioning element **24** has a second set of slots **56**, wherein the projections are arranged and shaped in accordance with the second set of slots of the positioning element such that the positioning element can be positioned on the housing in a rotationally secure manner; wherein the second set of slots fix the positioning element on the housing; wherein the projections extend from a surface of the housing towards the positioning element; mating slots **56** of positioning element **24** and projections **42** of housing **10** securely lock the positioning element against rotation relative to the housing (Figures 1-4, column 3 lines 30-41). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the fixing device disclosed by Inaba et al. to wherein the positioning element

Art Unit: 3679

comprises a second set of slots receiving housing projections as taught by DeVincent wherein the second set of slots extend in a line toward each other at longitudinal ends of the positioning element in order to securely lock the positioning element against rotation relative to the housing.

As to claim 17, Inaba et al. disclose a fixing device wherein the slots **13a,14a** configured to receive the lines **11a,12a** are arranged parallel to each other in the positioning element **10b** (Figure 8).

As to claim 24, Inaba et al. disclose a fixing device wherein the fixing device is capable of having have the expansion valve fit on an outer side of the housing with respect to an evaporator (Figures 8-9, column 5 lines 40-46).

As to claim 25, Inaba et al. disclose a fixing device wherein at least one hole **15** is provided in the positioning element to pass a screw through and capable to use to screw the screw into an expansion valve (Figures 8-9, column 5 lines 40-46).

As to claim 26, Inaba et al. disclose a fixing device wherein the housing has a multi-part design, with a housing joint running transversely through a housing-side part **15** of the positioning element **10** (housing bolts define a multi-part housing design; such housing bolts running transversely through part **15** of positioning element **10**; Figures 8-9, column 5 lines 55-59).

As to claim 27, Inaba et al. disclose a fixing device wherein an opening is provided in the housing joint, wherein the opening is configured to have at least one of the lines **20,21** protrude through the opening, with the at least one line capable of being connected to an expansion valve (Figures 8-9, column 5 lines 40-46).

***Response to Arguments***

9. Applicant's arguments with respect to claims 16-19 and 24-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patent shows the state of the art with respect to fluid line fixing devices:

Muller et al. (US 7,475,916) is cited for pertaining to fixing devices comprising a positioning element comprising slots receiving housing projections.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The newly added limitations of "a housing in which at least a part of the motor vehicle air-conditioning system is arranged... wherein positioning is configured to be fitted and fixed with the expansion valve... on the housing" in claim 16 (lines 3-12) necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



Art Unit: 3679

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF  
05/18/10

/Michael P. Ferguson/  
Primary Examiner, Art Unit 3679